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Kenneth J. Krieter

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EXAMINER

AGWUMEZIE, CHARLES C

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/701,308
Filing Date: November 04, 2003
Appellant(s): KRIETER ET AL.

Douglas B. Farrow
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed December 12, 2007 appealing from the Office action mailed June 26, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,078,888	JOHNSON JR.	6-2000
2002/0049549 A1	ROGERS et al	4-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers et al U.S. patent Application Publication No. 2002/0049549 A1 in view of Johnson, Jr. U.S. Patent No. 6,078,888.

As per **claim 1**, Rogers et al discloses a method for registering and communicating between a central control authorization point and a plurality of remote location devices comprising the steps of:

providing a said remote location device (0025; 0026; 0045);
preparing said remote location device for registration (0025; 0026; 0045);
registering said remote location device on said central control authorization point and assigning and transmitting an encrypted address unique to each said remote location device from said central control authorization point and storing said unique address on said remote location device (see fig. 2, 0025; 0026; 0045; 0047); and

utilizing said unique encrypted address for communication between said central control authorization point and said remote location device (figs. 1 and 2; 0140; 0141; 0143; see claim 16).

What Rogers et al does not explicitly teach is transmitting an encrypted address unique to each remote location device.

Johnson Jr. discloses transmitting an encrypted address unique to each remote location device (col. 3, lines 10-45; see claims 24, 25, 27 and 93; ...unique identifier for each transponder...).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the method of Rogers et al and incorporate a method of transmitting an encrypted address unique to each remote location device as taught by Johnson Jr. in order to uniquely identify each remote location device before authorization of the transaction and further ensure security.

As per **claim 2**, Rogers et al further discloses the method wherein said remote location device comprises a fluid meter (0002; 0003; 0020; 0021; 0022).

As per **claim 3**, Rogers et al further discloses the method wherein said remote location device comprises a tank level monitor (0044; 0045; 0046; 0143).

(10) Response to Argument

With respect to **claims 1-3**, Appellant argues that while the pieces are mentioned, there is no discussion of the claimed limitation of preparing for registration.

In response, Examiner respectfully disagrees and submits that the cited paragraphs of Rogers points to preparing a device for connection to a network as shown in the rejection. Alternatively Johnson discloses initial configuration of tag 100 (see col. 8, lines 55-65, which discloses that “when initially configuring tag 100, the host network 300 generates a tag identification number...”). Thus this element is met.

Appellant further argues that while Johnson Jr. may have unique addresses, the disclosure therein typifies prior art devices where each remote device or unit has a hard-coded identifier which is applied during manufacture. That the norm for network devices such as Ethernet and WiFi cards is for each such device to have an address (a MAC address) assigned to the device at the factory and well prior to system connection and configuration. That Johnson Jr. has a tag identifier on the card and there is no indication that Johnson Jr.'s POS device assigns that identifier.

In response, Examiner respectfully disagrees with Appellant's characterization and submits that Johnson Jr. does disclose the claimed assigning and transmitting an encrypted address unique to each remote location device as claimed. While a MAC address is usually hard-coded at the factory as stated by the Appellant, Johnson Jr.'s unique identifier as disclosed is not a MAC address as the Applicant seems to suggest. (see fig. 2 A, which discloses “tag 100”; also see col.8, lines 55-65, which discloses that “when initially configuring tag 100, the host network 300 generates a tag identification number (ID) and a main tag key, which is preferably a DES key, and directly injects

these numbers into the tag 100 along with other pertinent information"). Appellant's central authorization point which generates the unique encrypted address that is transmitted to the remote location device is equivalent to Johnson's host network 300 which generates the encrypted identification number that is transmitted or communicated to and injected into the remote tag 100. The remote device of Appellant is equivalent to Johnson Jr.'s tag 100 as shown in the attached Appeal chart. Johnson Jr.'s POS device does not assign the identifier rather the host network 300 (central authorization point) assigns the identifier to the tag 100 (remote location device). Thus Johnson Jr. does disclose assigning and transmitting an encrypted unique identifier for each remote location device as shown in the attached Appeal chart.

Appellant further argues that there is no suggestion or motivation as to how or why one would apply Johnson to Rogers and even if one did, one would merely have a prior art device with hard-coded addresses, that specific disclosure apparently being absent from the references of record.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references teaches a method of dispensing fluid through each of the dispensing remote location

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devices. Both arts are in the same field of endeavor and Examiner cannot see why both cannot be combined. Thus the combination is proper. Alternatively, KSR forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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Examiner, Art Unit 3621

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